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IN THE

Supreme Court of the United States

OCTOBER TERM, 1957

Nos. 881 and .....

WILLIAM AMLIN and DARRELL AMLIN, doing business as AMLIN CARTAGE, et al.,
Appellants,
vs.
PETER VERBEEM, doing business as PETERS CARTAGE,
Appellee

WILLIAM AMLIN and DARRELL AMLIN, doing business as AMLIN CARTAGE, et al.,
Appellants,
vs.
DONALD GOUIN, doing business as DON'S TRANSPORTS AND CARTAGE,
Appellee

MOTION TO AFFIRM

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Appellee

MOTION TO AFFIRM

Appellees, PETER VERBEEM, doing business as PETERS CARTAGE, and DONALD GOUIN, doing business as DON'S TRANSPORTS & CARTAGE, by their counsel and pursuant to Rule 16 (1)(c) of the Revised Rules of the Supreme Court of the United States move that the Opinions and Orders of Permanent Injunction of the District Court in the causes from which this appeal is taken be affirmed.

These are direct appeals from the final opinions and Orders of Permanent Injunction entered pursuant thereto on September 16, 1957, by a specially-constituted District Court of three (3) judges convened pursuant to Sections 2284 and 2325, Title 28 United States Code. Appellants, William Amlin and Darrell Amlin, doing business as Amlin Cartage and others who were intervening defendants below filed Notice of Appeal on November 14, 1957 and their Jurisdictional Statement on March 28, 1958. Appellant, Interstate Commerce Commission, also filed Notice of Appeal on November 14, 1957 but has not filed a Jurisdictional Statement and has now submitted a Stipulation as to dismissal of its appeal.

Appellees submit that the opinions of the District Court and the Orders of Permanent Injunction should be affirmed for the reason that the question on which the decision of the causes depend is so unsubstantial as to need no further argument.

BACKGROUND AND NATURE OF THE PROCEEDINGS

Appellees, Peter Verbeem, doing business as Peters Cartage and Donald Gouin, doing business as Don's Transports & Cartage, herein commenced transporting property between Windsor, Ontario, Canada, and Detroit, Michigan and vicinity as common carriers by motor vehicle in the fall of 1945 and in February 1946, respectively, at a time when it appeared that the Interstate Commerce Commission took the position that no authority was required from it to conduct such operations.[1] Approximately one year after the

[1] *Goyeau Contract Carrier Application*, 8 MCC 359; *Goyeau Common Carrier Application*, 11 MCC 519; *Ethier Contract Carrier Application*, 14 MCC 785, and *Hinton Common Carrier Application*, 28 MCC 81.

appellees had commenced operating, the Interstate Commerce Commission appeared to reverse its former position and hold that operations in the transportation of property as a carrier for hire between Windsor, Ontario, Canada, and Detroit, Michigan required authority.[2] This was not brought to the attention of appellees until several years later when they were advised by a local representative of the Interstate Commerce Commission that they would have to obtain authority from the Commission to continue conducting their operations.

Appellees, accordingly, filed their applications for authority and advised the Interstate Commerce Commission that pending determination of their respective applications they intended to continue their operations on the theory that under Section 9 (b) of the Administrative Procedure Act [Title 5, United States Code Sec. 1008 (b)] they were entitled to continue their operations until there had been a final determination by the Interstate Commerce Commission of their respective applications. The validity of such position was, in effect, recognized by the Commission in its decision in *John E. Merrifield, Common Carrier Application*, 61 M. C. C. 103.

The Jurisdictional Statement of appellants sets forth in detail the proceedings before the Interstate Commerce Commission, pages 4-6. Accordingly, this will not be repeated herein. It should be pointed out, however, that although the applications of appellees sought authority to operate between the port of entry on the international boundary between the United States and Canada, at or near Detroit, Michigan and Detroit, Michigan and points in the Detroit Commercial Zone, and there are a number of

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[2] *Ex Parte MC-37, Commercial Zones and Terminal Areas*, 46 MCC 665 at 689.

United States domiciled carriers, which have authority to perform such operations, none of such United States carriers opposed appellees' application or intervened in these proceedings. The only carriers protesting appellees' applications before the Commission were Canadian domiciled carriers, several of whom received their authority some time after appellees had started operating.

After the application of each appellee had been denied and all administrative remedies in connection therewith exhausted, appellees filed their respective appeals from the orders of the Interstate Commerce Commission denying their applications. The appeals were filed on the grounds that:

1. The Commission had no jurisdiction to regulate operations of motor carriers for hire in the transportation of property between Detroit, Michigan and Windsor, Ontario, Canada and those points in an area about Detroit, known as the Detroit, Michigan Commercial Zone.[3]

2. Even if the Commission had jurisdiction over such operations, its orders denying the applications of appellees were void for the reason that they were arbitrary, capricious and unreasonable.

After a full hearing on the issues, the Three Judge Federal District Court convened in this matter, on August 2, 1957, rendered its decision in an opinion reproduced in full in appellants' Jurisdictional Statement at pages 20-30. The Court held that the statute exempts the operations of appellees from the requirements that they obtain certificates of convenience and necessity and thereafter entered orders of Permanent Injunction. Subsequently, notices of

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[3] Defined in *Ex Parte MC-37, Commercial Zones and Terminal Areas*, Title 49, Part 170, Sec. 170.23, Code of Federal Regulations.

appeal to the Supreme Court of the United States were filed by intervening defendants in this matter, all of whom are residents of Canada, and also by the Interstate Commerce Commission. A Jurisdictional Statement has been filed by the intervening defendants. The Interstate Commerce Commission has submitted to counsel for appellees and appellants a Stipulation as to Dismissal of Appeals by the Interstate Commerce Commission to the Supreme Court, stating that the Interstate Commerce Commission voluntarily desires to dismiss the appeals filed by it. The only appeals docketed in your Court, therefore, are those of intervening defendants.

ARGUMENT

I.

QUESTION ON WHICH DECISION DEPENDS IS SO UNSUBSTANTIAL AS TO NEED NO FURTHER ARGUMENT

It is submitted that the Opinions of the District Court and the Orders of Permanent Injunction should be affirmed inasmuch as the question on which the decision of the causes herein depends is so unsubstantial as to need no further argument. The Interstate Commerce Commission, the principal defendant below, by its decision not to prosecute its appeal appears to have, in effect, conceded that this is so.

The question for consideration here is whether under Section 203(b)(8) of the Interstate Commerce Act (Sec. 303 (b)(8), Title 49 United States Code) certain motor carrier for hire operations between contiguous municipalities and in so-called commercial zones are exempt where part of the operation is conducted in Canada or Mexico.

The District Court held that they are exempt. The decision of the District Courts and the early decisions of the Commission are in accordance with the plain and unambiguous language of the statute. The interpretation contended for by appellants herein is illogical, contrary to the express language of the statute, and requires reading into the section of the statute involved language which Congress did not see fit to include therein as will be hereinafter shown.

The extent of the transportation operations involved here is so insignificant when considered in comparison with the extent of the interstate and foreign commerce operations which it must be conceded are exempt under Section 203(b) from all but certain provisions of the Interstate Commerce Act relating to employees of carriers and the safety of their operations that it can only be concluded, it is submitted, Congress clearly did not intend to exclude the transportation here involved from the exemption provisions of Section 203 (b)(8).

For the foregoing reasons, which will be more fully developed hereafter, appellees submit the question on which the decision of the causes herein depends is so unsubstantial as to need no further argument and the Opinions and Orders of Permanent Injunction of the District Court should be affirmed.

1. The Construction of Section 203(b)(8) by the District Court Is Reasonable and in Accord with the Intent of Congress as Expressed in the Plain Language of the Statute.

The interpretation placed upon Section 203 (b)(8) of the Interstate Commerce Act by the District Court, which was apparently the interpretation placed upon the Section by the Interstate Commerce Commission for the first 11 years of its regulation of motor carriers for hire is fully in accord with the clear and unambiguous language of the section.

The section, in effect, provides that the transportation of property in interstate or foreign commerce, wholly within a municipality, between contiguous municipalities and within a zone adjacent to and commercially a part of such municipality or municipalities shall be exempt from all but the qualifications and maximum hours of service of employees and safety of operations provisions of Section 204 of the Act. It is the position of appellants herein that where transportation between contiguous municipalities involves transportation between two cities, one of which is in the United States and the other in Canada or Mexico, or where transportation within a zone adjacent to and commercially a part of a municipality is partially in the United States and partially within Canada or Mexico, such transportation cannot be considered exempt under Section 203(b)(8) because it involves operations into a foreign country.

The operations or transportation involved in these causes is transportation between Detroit, Michigan and Windsor, Ontario, Canada. Appellants concede that as a matter of fact Detroit and Windsor are contiguous municipalities. The District Court so concluded and the Interstate Commerce Commission so found in its decision in *Ex Parte MC-37, Commercial Zones and Terminal Areas*, 46 M. C. C. 665, 681-2. In the same proceedings at page 686, the Interstate Commerce Commission also indicated that as a practical matter the Commercial Zone of Detroit, Michigan lies, in part, in the adjacent foreign country, Canada, and would obviously, therefore, include the contiguous municipality of Windsor. Even appellants here in their Jurisdictional Statement concede the existence of an "interacting commercial influence" between Windsor and Detroit.

Appellants' position here is obviously based upon the claim that Congress could not have intended the language of the section involved to extend to transportation into a

foreign country. It is difficult to conceive, however, how Congress could have made it clearer that Section 203(b)(8) covered such transportation. It is expressly stated that the provisions of the Interstate Commerce Act, except those relating to qualifications and maximum hours of service of employees and safety of operations, shall not apply to the "transportation of * * * property in interstate or *foreign* commerce * * * between contiguous municipalities, or within a zone adjacent to and commercially a part of such municipality or municipalities." Foreign commerce is defined in Section 203(a)(1) of the Act (Sec. 303 (a)(11), Title 49 United States Code) as including commerce between any place in the United States and any place in a foreign country. By referring to foreign commerce in Section 203(b)(8) it is clear, therefore, that Congress intended to extend the exemption to transportation such as that herein involved. It is obvious that had Congress intended to limit the exemption to operations between contiguous municipalities or commercial zones wholly within the United States it could easily have done so by inserting the phrase "within the United States" at appropriate places so that the section would apply to the "transportation of * * * property in interstate or foreign commerce * * * between contiguous municipalities *within the United States or* within a zone *within the United States* adjacent to and commercially a part of such municipality or municipalities." (Words italicized added). To hold otherwise than that the transportation of property between Detroit and Windsor is within the exemption of Section 203(b)(8) is to disregard the plain and unequivocal language of the statute and to read into the statute language Congress did not see fit to include therein. It is axiomatic that courts and administrative tribunals are not free to construct or interpret language which is clear and unambiguous; and that where the intention of Congress can be ascertained from the language of the statute, there is no

justification for giving such language any different meaning, and certainly not by reading into the statute language which Congress did not include therein. For the Court to do so would be legislating, which is clearly beyond its power.[4]

2. Construction Placed Upon Section 203(b)(8) by the District Court Is the Only Logical and Consistent Construction.

The construction placed upon Section 203(b)(8) by the District Court is the only logical and consistent construction of such section. Not only does the construction advanced by appellants require, as has been heretofore pointed out, that language be read into the section, but it also requires the taking of an inconsistent position, to-wit, that Congress intended to consider operations in foreign commerce in determining what is to be regulated, but not with respect to what is to be exempt from regulation. The term "municipality" as used in the statute is clear and requires no interpretation. If the appellants' contention that under the section involved we can look only to municipalities in the United States is correct, then the transportation involved would still be exempt since the only operations which could be considered would be within the United States. In other words, appellants contend that we cannot look beyond Detroit since Windsor is in a foreign country. If the considered section is so interpreted, then the only operations which could be considered would be those conducted in Detroit, a municipality; and it would follow, therefore, that they are exempt since the considered operations would be wholly within a municipality within the

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[4] *Interstate Commerce Commission v. Dunn*, (C. C. A. 5th, 1948) 166 F. 2d 116.

United States. To adopt appellants' interpretation is to read language into the section for certain purposes and omit it for others. This clearly is not consistent. The only logical and consistent interpretion is the one adopted by the District Court.

As has been previously pointed out, Detroit and Windsor are admittedly contiguous municipalities. It must be conceded that under the clear language of Section 203(b)(8), transportation of property in foreign commerce wholly within Detroit is exempt. It must further be conceded that transportation of property in Windsor is beyond the power of Congress or the Interstate Commerce Commission to regulate. The effect of the construction advanced by appellants is to say that while a carrier may without authority engage in the transportation of property in Detroit to the very border of Windsor in foreign commerce, once the border is crossed and property transported into a foreign city authority is required even though no jurisdiction can be exercised over the operation in the foreign city. This is an anomalous position indeed and one requiring considerable mental gymnastics. Indeed, the Interstate Commerce Commission itself recognized the illogic of such position in *Ex Parte MC-37, Commercial Zones and Terminal Areas,* 46 MCC 665, 687.

3. Construction of Section 203 (b) (8) Adopted by the District Court Clearly Intended by Congress.

It seems evident that the construction of Section 203 (b)(8) adopted by the District Court in the causes involved herein is clearly in accord with the intent of Congress in enacting such section. When the Motor Carrier Act of 1935 [Title 49 U. S. C. Sec. 301 *et seq.*] was enacted in August

of 1935, Section 203 (b)(8) was worded as it is now worded. As has been previously pointed out, the language of such section is clear and unambiguous. In the years just following its enactment, the Interstate Commerce Commission, while the Motor Carrier Act (now Part II, Interstate Commerce Act) was still new and when the Commission must have been fully conscious of the legislative purposes for adopting the Act, in various decisions held that the transportation of property between Detroit and Windsor did not require authority from the Commission as it was exempt under Section 203 (b)(8).[5] In 1938 and 1940 the Motor Carrier Act was amended and yet Congress did not in the light of the Commission's interpretation thereof see fit to change the language of Section 203 (b)(8) or in any way to indicate that it did not intend to exempt operations such as those here involved.

A consideration of the extent of the other transportation in interstate or foreign commerce exempted by Congress under Section 203 (b) and particularly subsection (8) thereof from the jurisdiction of the Interstate Commerce Commission, except as to such matters as hours of service of employees and safety operations, would compel the conclusion that Congress intended to exempt the transportation here involved even if there had been any ambiguity in the language in question. Since there is no ambiguity, there can be no escape from the conclusion that Congress intended to exempt the operations in question.

Congress in adopting the Motor Carrier Act provided for the exemption of many transportation of property operations in interstate or foreign commerce from the requirement that authority must be obtained from the Interstate Commerce Commission to perform such operations.

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[5] Cases cited in footnote 1 *supra*.

By the terms of Section 203 (b) much more extensive transportation operations are exempted than those involved herein. For example, the transportation of ordinary livestock, fish, and agricultural commodities (not including manufactured products thereof) is exempt from the provisions of the Interstate Commerce Act, except those pertaining to such things as hours of service of employees and safety of operations. These classes of property may be transported anywhere in the United States in interstate or foreign commerce under such exemption. The term "agricultural commodities (not including manufactured products thereof)" has been construed to include a broad range of commodities, including frozen fruits and vegetables.[6] It might be well to point out here that the Interstate Commerce Commission has not hesitated to hold that the transportation of fresh fruits and vegetables between points in the United States and points in Mexico are exempt under the so-called "agricultural commodities" exemption of Section 203(b)(6) [Title 40, Sec. 303 (b)(6)][7] even though subsection (6) of Section 203(b) does not specifically refer to transportation in foreign commerce, while at the same time it held that operations between points in the United States and points in Mexico could not be considered exempt under subsection (8) of Section 203 (b) although such subsection specifically exempts transportation in foreign commerce.[8] There is nothing in the language of the statute justifying such conflicting interpretation.

In addition to exempting the transportation of livestock, fish, and agricultural commodities, Section 203 (b) exempts

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[6] *Frozen Food Express v. U. S.* (D. Ct. Tex. 1956), 148 F. Supp. 399, aff'd per curiam U. S. Sup. Ct., Oct. 14, 1957.

[7] *Auto Transporters Del Norte, Common Carrier Application*, 48 MCC 671, 673.

[8] *Ex Parte MC-37, Commercial Zones and Terminal Areas, infra.*

transportation performed by farmers and that performed by certain cooperative associations and the transportation of newspapers. Such transportation is exempt even though, for example, performed between a point in New Jersey and a point in California. Even more significant than this, however, is the fact that Section 203 (b)(8) itself unquestionably exempts transportation of property in interstate or foreign commerce where:

1. The transportation is wholly within a municipality. Thus, for example, all interstate or foreign commerce operations wholly within a city such as Detroit, Michigan, Chicago, Illinois or New York, New York are exempt.

2. The transportation is performed between contiguous municipalities where both are located in the United States. Thus, operations between Kansas City, Kansas and Kansas City, Missouri; St. Paul and Minneapolis, Minnesota; Rock Island, Illinois and Davenport, Iowa are exempt.

3. The transportation is within a zone adjacent to and commercially a part of a municipality or municipalities, commonly known as a commercial zone, when all of such zone is within the United States. Thus, transportation in the Chicago, Illinois Commercial Zone, which includes municipalities in Indiana as well as in Illinois, or in the Cincinnati, Ohio Commercial Zone, which includes municipalities in Ohio and Kentucky, is exempt.[9]

It is difficult to conceive that Congress would exempt all of the above operations and not those here involved. This

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[9] Defined in *Ex Parte MC-37, Commercial Zones and Terminal Areas, infra* note 3.

is especially so when consideration is given to the magnitude and scope of the operations it must be conceded were exempted when contrasted with the insignficance of the operations here involved. Indeed, the Interstate Commerce Commission itself in its 69th Annual Report to the Congress made in 1955, stated that transportation between border cities such as Detroit and Windsor is of little, if any, importance to the United States.[10] The Commission's decision not to prosecute its appeal is further evidence of that fact.

Appellants appear to contend in their Jurisdictional Statement at page 7 that the construction placed upon Section 203 (b)(8) by the District Court would thwart the legislative purposes of Congress in enacting the Motor Carrier Act of 1935 and frustrate the remedial aspects thereof by exempting the operations in question from the certificate requirements of the Act, because the Act was adopted to stabilize the motor carrier industry through regulation. Such argument might be compelling and convincing if Congress had not seen fit to exempt many types of transportation from the requirement that authority be obtained from the Interstate Commerce Commission to perform such transportation instances of which exemptions have just been discussed. Obviously, the legislative purposes of Congress will be no more thwarted by the construction placed upon Section 203 (b)(8) by the District Court in these causes than they have been by constructions of other portions of Section 203 (b) by the Courts and the Interstate Commerce Commission.

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[10] *The 69th Annal Report to Congress by the Interstate Commerce Commission*, page 128 (1955).

4. Appellants' Jurisdictional Statement Does Not Establish That the Question Present Here Is Substantial.

Appellees respectfully submit that the Jurisdictional Statement filed by appellants herein does not establish that the question on which the decision of the causes herein depend is substantial enough to need further argument. As has been previously pointed out, the construction placed upon Section 203(b)(8) by the District Court neither thwarts the legislative purpose of Congress in enacting the Act of which such section is a part nor frustrates any remedial purpose of the Act. Furthermore, as has been earlier developed herein, the construction of Section 203 (b)(8) adopted by the District Court is not only reasonable, logical and consistent but is also in accord with the plain and unambiguous language of the statute. It is obviously in accord with the intent of Congress in enacting the statute.

One of the reasons advanced by appellants why this Honorable Court should consider the question presented here as substantial is that the construction placed upon Section 203(b)(8) by the District Court will create difficulties in connection with the enforcement of the Interstate Commerce Act. The difficulties mentioned relate primarily to the question of determining whether the transportation in question was being conducted wholly within the exempt zone or area or beyond. This problem obviously is present in connection with any transportation performed under the exemptions granted by Section 203 (b) of the Interstate Commerce Act whether the transportation is performed wholly within the United States or in part in the United States and in part in a foreign country. In each and every instance it is a question of fact not difficult of ascertainment

as to between what points and under what circumstances the transportation is being performed. It is significant that the Interstate Commerce Commission, which is charged with responsibility for enforcing the Interstate Commerce Act, does not appear to feel that any particular enforcement problem would be created by the construction of Section 203 (b)(8) adopted by the District Court. This is evident from its decision not to prosecute its appeals from the decisions of the District Court as well as from the statement made by its in its 69th Annual Report to the Congress indicating its desire to be rid of the responsibility of regulating any phases of the transportation herein involved, except those relating to such things as hours of service of employees and safety of operations.

This particular contention of appellants demonstrates the inconsistency of their position. On the one hand they seem to say that the considered statutory provision should not be given its plain meaning because this would make enforcement of the Interstate Commerce Act by the Interstate Commerce Commission contingent upon activities in a foreign country, and the Commission should not have to look to and consider such activities in a foreign country. On the other hand, they state that transportation between a foreign country and the United States can and should be considered in determining what carriers are to be regulated. In effect, they are contending that Congress intended to look beyond the territorial limits of the United States and permit the Commission to do so for the purposes of deciding what carriers are to be regulated and in regulating them, but that Congress could not have intended to have considered anything beyond the territorial limits of the United States in prescribing the exemption here involved. This position is without sound basis in logic or reason.

In any event, in view of the clear and unambiguous language of the statute, even if the construction adopted by the District Court herein were to create enforcement difficulties, this would confer no authority on the Court to change the plain meaning of the statute or to read language into the statute.

Appellants also seem to contend that there is a substantial question herein because certain of them them have been engaged in the transportation of property between Detroit and Windsor since 1935 under authority granted by the Commission and they would be faced with disastrous competition if the decision of the lower court is affirmed. Several of the appellants did not, however, obtain their authority from the Commission until after appellees had started operating and until after November of 1946 when the Commission for the first time clearly took the position that authority was required from it to conduct transportation operations such as those involved. Carriers such as appellees and others were conducting transportation operations between Detroit and Windsor under the belief they were exempt as late as 1951 and 1952, without any advice from the Interstate Commerce Commission that they were not exempt. All during this period from 1935 through November 1946 and up until the time of the hearings on the applications of appellees, certain appellants holding authority from the Commission were competing with carriers operating under the belief their operations were exempt. Despite that fact appellants are still in business. It is apparent from the records of the proceedings before the Interstate Commerce Commission on the applications of the appellees herein that appellants have continued to grow and to profit from their operations.

The effect, however, that the construction of Section 203(b)(8) may have upon certain carriers does not con-

stitute any basis for changing the plain and unambiguous language of the statute. It is inevitable that any decision which construes the language of Section 203(b) of the Interstate Commerce Act as having a meaning other than that adopted by the Interstate Commerce Commission over a period of years with the result that transportation considered non-exempt by the Commission is held exempt by the Courts will affect the competitive position of carriers which have obtained authority from the Interstate Commerce Commission. Yet this has not prevented the Courts from, over the years, giving the language of Section 203(b) of the Interstate Commerce Act a different interpretation than that given it by the Commission. For example, the Commission has always considered the transportation of frozen fruits and vegetables, in interstate or foreign commerce, as non-exempt, and granted numerous carriers authority to perform such transportation, yet this Honorable Court has recently sustained District Court decisions construing such transportation as exempt.[11] The Interstate Commerce Commission up to then had consistently held that the transportation of frozen fruits and vegetables was non-exempt under Section 203 (b)(6) and granted authority to numerous carriers. The Commission has not been nearly so consistent in construing Section 203 (b)(8) as it applies to transportation of property between Detroit and Windsor. As has been previously pointed out for the first eleven or so years after the Motor Carrier Act of 1935

[11] *Frozen Food Express v. United States* (D. C. Tex., 1956), 148 F. Supp. 399, aff'd per curiam Oct. 14, 1957, 2 L. Ed. 2d 22; *Interstate Commerce Commission v. Home Transfer & Storage Co.*, 352 U. S. 884, 77 S. Ct. 129, 1 L. Ed. 2d 82, affirming *Home Transfer & Storage Co. v. United States* (D. Ct. Wash. 1956), 141 F. Supp. 599.

was enacted, the Commission appeared to consider such operations exempt and not until November of 1946 did it begin to adopt a consistent interpretation of the statute as relating to such transportation. Obviously, if a consistent construction of Section 203(b)(6) by the Interstate Commerce Commission and the granting of authority to carriers in accordance with such interpretation created no basis for holding that the transportation of frozen fruits and vegetables in interstate or foreign commerce was non-exempt under such section, the inconsistent interpretation adopted by the Commission of the language of Section 203(b)(8) so far as it relates to the transportation here involved and the granting of some authority could hardly be said to create any basis for holding the transportation here involved to be non-exempt.

CONCLUSION

The foregoing contentions were raised before the District Court, and after careful consideration rejected. It is, therefore, respectfully submitted that, as held in the well considered opinions of the District Court, the transportation of property by appellees between Detroit, Michigan and points in the Detroit Commercial Zone, on the one hand, and, on the other, Windsor, Ontario, Canada, is exempt under Section 203 (b)(8) of the Interstate Commerce Act from the certificate requirements of the Act; and that since the question on which the decision of the causes involved depends is so unsubstantial as to need no further argument, the Opinions and Orders of Permanent Injunction of the District Court should be affirmed.

Respectfully submitted,

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Dated: April —, 1958.